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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,275	04/13/2004	Magnus Svensson	PS03 0296US1	3485
58342 7590 11/12/2008 WARREN A. SKLAR (SOER) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE 19TH FLOOR CLEVELAND, OH 44115				
EXAMINER BELANI, KISHIN G				
ART UNIT 2443		PAPER NUMBER		
MAIL DATE 11/12/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,275

Applicant(s)

SVENSSON ET AL.

Examiner

KISHIN G. BELANI

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to Applicants' RCE filed on 08/27/2008. **Independent claims 1 and 14 and dependent claims 2, 3, 7, 9, 11-13, 15-17 and 19-21 have been amended. Claims 1-21 are now pending** in the present application. The applicants' amendments to claims are shown in ***bold and italics***, and the examiner's response to the amendments is shown in **bold** in this office action.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/27/2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 5, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)**.

Consider **claim 1**, Bird et al. show and disclose a multimedia-messaging-content-capability-negotiation method (Fig. 1 that shows a schematic representation for the disclosed method, including MSA 120 acting as a first service, Subscriber Applications 20 as receiving clients and Message Broker 30 as a sending client; paragraphs 0007 that discloses a method using a message broker adapted to receive and store information from subscriber systems regarding their capabilities, as well as receiving a message from a publisher application with a request to modify the message to conform to the subscriber system capabilities and then to send the derived messages with modified content to subscriber application programs at the subscriber systems (such as PDAs, mobile telephones, etc.); paragraph 0009 that further lists the capabilities to analyze, including graphic capabilities (e.g. resolution, graphic mode, compression scheme, preferred image format, etc.), audio and video playback capabilities); comprising:

receiving, by a first service, of multimedia-messaging- content-capability information from a receiving **end** client (paragraph 0039, lines 10-14 which disclose that when a receiving **end** client requests to register with the message broker for receiving a desired media content, it triggers a message service agent 120 (a first service) at the subscriber system to query a pre-defined set of the subscriber system's capabilities, prompting retrieval of a comprehensive predefined set of system capability information);

transmitting, by the first service, of the multimedia-messaging- content-capability information to a sending **end** client (paragraph 0041 which discloses that the retrieved

capabilities information and the existing generated requests are then packaged by the message service agent 120 as an XML structured message and sent to the broker); and evaluating the multimedia-messaging- content-capability information by the sending **end** client in order to determine what contents to transmit to the receiving **end** client (paragraphs 0042-0043 which disclose that the message broker maps the system capability information included in the received package to pre-defined classes of capability and stores the subject requirements of subscribers in a database; further disclosing in paragraphs 0049-0050 that the stored capability classes are used later to evaluate what contents to transmit to the receiving **end** client).

However, Bird et al. do not specifically disclose that the sending end client is the client ***that originates a message***.

In the same field of endeavor, Nielson et al. disclose the claimed method, including wherein the sending end client is the client ***that originates a message*** (paragraphs 0022-0023, which disclose a mobile telephone terminal that is capable of making and receiving telephone calls and sending SMS or multimedia MMS messages via a cellular telephone communication network, or act as an Instant Messaging Client (Wireless Village embedded client) that can connect to an instant messaging server using the cellular telecommunication network as an IMPS client; paragraphs 0028-0031 further disclosing that an IMPS client may obtain presence information associated with a target user by initiating a Get Presence Transaction with the server, providing the target's User ID; the IM server then responding with a GetPresenceResponse message, transmitting the

requested presence attributes, that indicate whether the target device is available for receiving a telephone call, SMS, or multimedia MMS; paragraph 0053 which further discloses that the mobile telephone terminal then processes the received presence information to determine whether or not a telephone number has been received and if it has, extracting and using it to telephone target user B, thereby disclosing analyzing the target user's presence information received from the server and then establishing direct communication with the target user).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide end-to-end message communication between a sending end client and a target end client, as taught by Nielson et al., in the method of Bird et al., so that direct efficient communication between the sending client and the target client can occur.

Consider **claim 2**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al., disclose the claimed method, further comprising:
transmitting, by a second service, of a message from the sending **end** client to the receiving **end** client; and wherein the message is adapted by the sending **end** client in accordance with the multimedia-messaging-content-capability information (in Bird et al. reference, Fig. 1, Messaging Manager 90 that functions as a second service; paragraph 0062 which discloses that after evaluating the receiving client's capabilities and selecting requested content, the message broker then forwards, via the messaging manager 90, the derived message to the subscriber who specified this information

requirement, thus providing content-type-specific processing of message content based on subscriber system capabilities as well as the user-specified and application-specific requirements).

Consider **claim 3**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al., disclose the claimed method, further comprising opting, by the sending **end** client, to not send a message to the receiving **end** client (in Bird et al. reference, paragraph 0065 which discloses that the message broker uses the specified requirements of the receiving **end** client before determining whether a particular subscriber should receive a message; further disclosing that in addition to the analyzing the multimedia processing capability of the receiving client, the processing by the message broker includes processing subscriber information requirements such as a requirement to be notified of the stock price of a company only when the stock price exceeds a threshold price, thereby disclosing not sending a message to the receiving client in case the content does not meet the receiving **end** client's capabilities or expectation).

Consider **claim 5**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al., further disclose the claimed method, wherein the first service (publishing the capabilities of a receiving terminal) operates in accordance with Wireless Village protocol (WV) (in Nielson et al. reference, paragraphs 0002, 0004 and 0023 which disclose that the first service uses Wireless Village protocol (WV)).

Consider **claim 7**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al., disclose the claimed method, wherein the multimedia-messaging-content-capability information indicates that the receiving **end** client is adapted to receive multimedia messages (in Bird et al. reference, paragraphs 0049-0050, 0059 which disclose using multimedia processing modules in response to the request from the receiving **end** client for content that includes multimedia content such as video, audio, images, earth maps etc., thereby disclosing that the receiving **end** client is adapted to receive multimedia messages).

Consider **claim 11**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a WV extension field for presence attributes for the receiving **end** client (in Nielson et al. reference, Fig. 4, presence indicator 50; paragraph 0064 which discloses that the presence indicator may be an indication of the "registration" presence attribute for the receiving **end** client that uses Wireless Village protocol to register with the first service).

Claims 4, 6, 8, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)** in view of **Nielson et al. (US Patent Application Publication # US**

2006/0129643 A1 and further in view of **Vitikainen et al. (US Patent Application Publication # US 2003/0065802 A1)**.

Consider **claim 4**, and **as it applies to claim 2 above**, Bird et al., as modified by Nielson et al., disclose the claimed method, except specifically disclosing wherein the second service operates in accordance with multimedia messaging services (MMS).

In the same field of endeavor, Vitikainen et al. disclose the claimed method, including wherein the second service operates in accordance with multimedia messaging services (MMS) (Fig. 1; paragraphs 0018 and 0040 which disclose that the second service (from Server/Gateway 101 to Mobile Terminal 120 as shown in Fig. 1) operates in accordance with multimedia messaging services (MMS)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a message transmitting service that operates in accordance with multimedia messaging services (MMS), as taught by Vitikainen et al., in the method of Bird et al., as modified by Nielson et al., so that the receiving client may be able to receive multimedia content using services of pre-established MMS.

Consider **claim 6**, and **as it applies to claim 2 above**, Bird et al., as modified by Nielson et al. and Vitikainen et al., further disclose the claimed method, wherein the first service operates in accordance with WV (in Nielson et al. reference, paragraphs 0002,

0004 and 0023 which disclose that the first service operates in accordance with WV (Wireless Village) protocol); and
the second service operates in accordance with MMS (in Vitikainen et al. reference, Fig. 1; paragraphs 0018 and 0040 which disclose that the second service (from Server/Gateway 101 to Mobile Terminal 120 as shown in Fig. 1) operates in accordance with MMS).

Consider **claim 8**, and **as it applies to claim 7 above**, Bird et al., as modified by Nielson et al. and Vitikainen et al., further disclose the claimed method, wherein the message is in accordance with MMS (in Vitikainen et al. reference; Fig. 1; paragraphs 0018 and 0040 which disclose that the message is in accordance with MMS).

Consider **claim 12**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al. and Vitikainen et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving **end** client (paragraph 0058 which disclose that if the mobile terminal supports WAP (Wireless Access Protocol) UAProf (User Agent Profile), the mobile terminal provides its detailed multimedia capabilities information according to the UAProf specification).

Consider **claim 13**, and **as it applies to claim 1 above**, Bird et al., as modified by Nielson et al. and Vitikainen et al., further disclose the claimed method, wherein the

multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving **end** client (in Vitikainen et al. reference, paragraph 0058 which disclose that when a subscriber requests a multimedia content from a web server, information about the requesting mobile server is also provided through the User Agent Header (UAHeader) field of the WSP (Wireless Service Provider) session, thus disclosing that the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving client).

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)** in view of **Heck et al. (US Patent Application Publication # US 2005/0064883 A1)**.

Consider **claim 9**, and as it applies to **claim 1** above, Bird et al. disclose the claimed method, except wherein the multimedia-messaging-content-capability information indicates that the receiving **end** client is not adapted to receive multimedia messages.

In the same field of endeavor, Heck et al. disclose the claimed method, wherein the multimedia-messaging-content-capability information indicates that the receiving **end** client is not adapted to receive multimedia messages (Flowchart of Fig. 5, steps 202, 208 that shows that the multimedia-messaging-content-capability information

indicates that the receiving **end** client is not adapted to receive multimedia messages; paragraph 0029 which discloses the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine from the multimedia-messaging-content-capability information that the receiving end client is not adapted to receive multimedia messages, as taught by Heck et al., in the method of Bird et al., so that the message broker can attempt to deliver the message portion by any other delivery method within the capabilities of the receiving end client.

Consider **claim 10**, and **as it applies to claim 9 above**, Bird et al., as modified by Heck et al., further disclose the claimed method, wherein the message is in accordance with short messaging service (SMS) (in Heck et al. reference, flowchart of Fig. 5, steps 210, 216 and 218; paragraph 0030 that discloses the same details).

Claims 12-13 are further rejected under 35 U.S.C. 103(a) as being unpatentable over **Bird et al. (European Patent Publication # EP 1 043 671 A2)** in view of **Coulombe (U.S. Patent Publication # 7,103,681 B2)**.

Consider **claims 12**, and **as it applies to claim 1 above**, Bird et al. disclose the claimed method, except wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAprof) link in an information presence attribute of the receiving **end** client.

In the same field of endeavor, Coulombe disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a user agent profile (UApof) link in an information presence attribute of the receiving **end** client (in Coulombe reference, column 1, lines 23-25 which disclose that the multimedia-messaging-content-capability information is obtained through a user agent profile (UApof) link of the receiving **end** client).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the multimedia-messaging-content-capability information in a user agent profile (UApof) link in an information presence attribute of the receiving end client, as taught by Coulombe, in the method of Bird et al., so that the message broker has access to the user agent profile for determining the capabilities of the receiving end client.

Consider **claims 13**, and **as it applies to claim 1 above**, Bird et al., as modified by Coulombe, further disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a UApof element of a client information element of the receiving **end** client (in Coulombe reference, column 1, lines 23-25 which disclose that the multimedia-messaging-capability information is deduced from HTTP/WSP headers such as a User Agent header (UAHEADER in a UApof element) of the receiving **end** client).

Claims 14-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bird et al. (European Patent Publication # EP 1 043 671 A2)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Coulombe (U.S. Patent Publication # 7,103,681 B2)**.

Consider **claims 14**, Bird et al., disclose an end-to-end multimedia-messaging-content-capability-negotiation system (Fig. 1 that shows a schematic representation for the disclosed system, including MSA 120 acting as a first service, Subscriber Applications 20 as receiving clients and Message Broker 30 as a sending client; paragraphs 0007 that discloses a system using a message broker adapted to receive and store information from subscriber systems regarding their capabilities, as well as receiving a message from a publisher application with a request to modify the message to conform to the subscriber system capabilities and then to send the derived messages with modified content to subscriber application programs at the subscriber systems (such as PDAs, mobile telephones, etc.); paragraph 0009 that further lists the capabilities to analyze (including graphic capabilities, e.g. resolution, graphic mode, compression scheme, preferred image format, etc., audio and video playback capabilities)).

However, Bird et al. do not specifically disclose a WV service, wherein the WV service is adapted to receive multimedia-messaging-content-capability information from a receiving **end** client; and transmit the multimedia-messaging-content-capability information to a sending **end** client; an MMS service, wherein the MMS service is

adapted to transmit a message from the sending **end** client to the receiving **end** client; and wherein the message is adapted by the sending client in accordance with the multimedia-messaging-content-capability information.

In the same field of endeavor, Nielson et al. disclose a WV service (paragraph 0002 that discloses using the Wireless Village (WV) protocol by a first service for Instant Messaging and Presence Services (IMPS)), wherein the WV service is adapted to: receive multimedia-messaging-content-capability information from a receiving **end** client (paragraph 0003 which discloses that Presence Attributes allow a user (a receiving client) to publish attribute information about the user or their terminal, so that other IMPS clients (a sending client) can obtain the attribute information and be informed of changes to the information; paragraph 0023 discloses additional details about a receiving **end** client); and transmit the multimedia-messaging-content-capability information to a sending **end** client **that originates a message** (paragraphs 0028-0031 that disclose the process of transmitting the multimedia-messaging-capability information of a receiving client from the server of the first service to a sending **end** client; **paragraphs 0022-0023, which disclose a mobile telephone terminal which is capable of making and receiving telephone calls and sending SMS or multimedia MMS messages via a cellular telephone communication network, or act as an Instant Messaging Client (Wireless Village embedded client) that can connect to an instant messaging server using the cellular telecommunication network as an IMPS client; paragraphs 0028-0031 further disclosing that an IMPS client may obtain presence**

information associated with a target user by initiating a Get Presence Transaction with the server, providing the target's User ID; the IM server then responding with a GetPresenceResponse message, transmitting the requested presence attributes, that indicate whether the target device is available for receiving a telephone call, SMS, or multimedia MMS; paragraph 0053 which further discloses that the mobile telephone terminal then processes the received presence information to determine whether or not a telephone number has been received and if it has, extracting and using it to telephone user B, thereby disclosing analyzing the target user's presence information received from the server and then establishing direct communication with the target user).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a WV service, wherein the WV service is adapted to receive multimedia-messaging-content-capability information from a receiving end client; and transmit the multimedia-messaging-capability information to a sending end client that originates the message, as taught by Nielson et al., in the system of Bird et al., so that the receiving terminal is still able to view the content of the transmitted message despite its limited capabilities.

However, Bird et al., as modified by Nielson et al., do not disclose that the system further comprises an MMS service, wherein the MMS service is adapted to transmit a message from the sending end client to the receiving end client; and wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information.

In the same field of endeavor, Coulombe does show and disclose that the system further comprises an MMS service, wherein the MMS service is adapted to transmit a message from the sending end client to the receiving end client; and wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information (Fig. 1, a second service MMSC 14, multimedia message signal MMSS 20 and receiving terminal 22; column 1, lines 36-38 which disclose that MMSC tries its best to adapt each media component to a format that is supported by the receiving terminal based on the reported capabilities of the terminal).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide an MMS service, wherein the MMS service is adapted to transmit a message from the sending end client to the receiving end client; and wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information, as taught by Coulombe, in the system of Bird et al., as modified by Nielson et al., so that the receiving terminal is still able to view the content of the transmitted message despite its limited capabilities.

Consider **claim 15**, and **as it applies to claim 14 above**, Bird et al., as modified by Nielson et al. and Coulombe, further disclose the claimed system, wherein the sending **end** client may, responsive to receipt of the multimedia-messaging-content-capability information, opt to not send a message to the receiving **end** client (in Bird et al. reference, paragraph 0065 which discloses that the message broker uses the specified requirements of the receiving **end** client before determining whether a

particular subscriber should receive a message; further disclosing that in addition to the analyzing the multimedia processing capability of the receiving **end** client, the processing by the message broker includes processing subscriber information requirements such as a requirement to be notified of the stock price of a company only when the stock price exceeds a threshold price, thereby disclosing not sending a message to the receiving **end** client in case the content does not meet the receiving **end** client's capabilities or expectation).

Consider **claim 16**, and **as it applies to claim 14 above**, Bird et al., as modified by Nielson et al. and Coulombe, further disclose the claimed system, wherein the multimedia-messaging-content-capability information indicates that the receiving **end** client is adapted to receive multimedia messages (in Bird et al. reference, paragraphs 0049-0050, 0059 which disclose using multimedia processing modules in response to the request from the receiving client for content that includes multimedia content such as video, audio, images, earth maps etc., thereby disclosing that the receiving **end** client is adapted to receive multimedia messages).

Consider **claim 19**, and **as it applies to claim 14 above**, Bird et al., as modified by Nielson et al. and Coulombe, further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a WV extension field for presence attributes for the receiving **end** client (in Nielson et al. reference, Fig. 4, presence indicator 50; paragraph 0064 which discloses that the presence indicator may

be an indication of the "registration" presence attribute for the receiving **end** client that uses Wireless Village protocol to register with the first service).

Consider **claims 20**, and **as it applies to claim 14 above**, Bird et al., as modified by Nielson et al. and Coulombe, further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAprof) link in an information presence attribute of the receiving **end** client (in Coulombe reference, column 1, lines 23-25 which disclose that the multimedia-messaging-capability information is obtained through a user agent profile (UAprof) link of the receiving **end** client).

Consider **claims 21**, and **as it applies to claim 14 above**, Bird et al., as modified by Nielson et al. and Coulombe, further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving **end** client (in Coulombe reference, column 1, lines 23-25 which disclose that the multimedia-messaging-capability information is deduced from HTTP/WSP headers such as a User Agent header (UAHEADER in a UAprof element) of the receiving **end** client).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bird et al. (European Patent Publication # EP 1 043 671 A2)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view

of Coulombe (U.S. Patent Publication # 7,103,681 B2) and further in view of Heck et al. (US Patent Application Publication # US 2005/0064883 A1).

Consider **claim 17**, and **as it applies to claim 14 above**, Bird et al., as modified by Nielson et al. and Coulombe, disclose the claimed system, except wherein the multimedia-messaging-content-capability information indicates that the receiving **end** client is not adapted to receive multimedia messages.

In the same field of endeavor, Heck et al. disclose the claimed system, wherein the multimedia-messaging-content-capability information indicates that the receiving **end** client is not adapted to receive multimedia messages (Flowchart of Fig. 5, steps 202, 208 that shows that the multimedia-messaging-content-capability information indicates that the receiving client is not adapted to receive multimedia messages; paragraph 0029 which discloses the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine from the multimedia-messaging-content-capability information that the receiving **end** client is not adapted to receive multimedia messages, as taught by Heck et al., in the system of Bird et al., as modified by Nielson et al. and Coulombe, so that the message broker can attempt to deliver the message portion by any other delivery method within the capabilities of the receiving client.

Consider **claim 18**, and **as it applies to claim 17 above**, Bird et al., as modified by Nielson et al., Coulombe and Heck et al., further disclose the claimed system,

wherein the message is in accordance with Short Messaging Service (SMS) (in Heck et al. reference, flowchart of Fig. 5, steps 210, 216 and 218; paragraph 0030 that discloses that discloses the same details).

Response to Arguments

Applicant's arguments filed 07/25/2008 have been fully considered but they are not persuasive. The examiner has concluded that the cited prior art of Nielson et al., in combination with Bird et al., do provide adequate disclosure and support to reject the amended claims. The examiner's response to the applicants' arguments is given below:

Consider **independent claims 1 and 14**. Whereas Bird et al. (European Patent Publication # EP 1 043 671 A2) does teach most of the claimed elements of these two independent claims, the disclosed claim element which teaches that the sending end client is the one that originates a message, is taught by Nielson et al. (US Patent Application Publication # US 2006/0129643 A1) (**see paragraphs 0022-0023, which disclose a mobile telephone terminal that is capable of making and receiving telephone calls and sending SMS or multimedia MMS messages via a cellular telephone communication network, or act as an Instant Messaging Client (Wireless Village embedded client) that can connect to an instant messaging server using the cellular telecommunication network as an IMPS client; paragraphs 0028-0031 further disclosing that an IMPS client may obtain presence information associated with a target user by initiating a Get Presence Transaction with the server, providing the target's User ID; the IM server then responding with**

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a **GetPresenceResponse** message, transmitting the requested presence attributes, that indicate whether the target device is available for receiving a telephone call, SMS, or multimedia MMS; paragraph 0053 which further discloses that the mobile telephone terminal then processes the received presence information to determine whether or not a telephone number has been received and if it has, extracting and using it to telephone target user B, thereby disclosing analyzing the target user's presence information received from the server and then establishing direct communication with the target user). Therefore, the examiner considers **independent claims 1 and 14 to be non-patentable** in their present form. There are no additional arguments provided for the remaining **dependent claims 2-13 and 15-21, which are also considered non-patentable** in view of their dependence over the rejected independent claims 1 and 14.

Conclusion

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kishin G. Belani whose telephone number is (571) 270-1768. The Examiner can normally be reached on Monday-Friday from 6:00 am to 5:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

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/K. G. B./
Examiner, Art Unit 2443

October 31, 2008

/Tonia LM Dollinger/
Supervisory Patent Examiner, Art Unit 2443